

ISOC European Regional Bureau Newsletter

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Net neutrality

EU: Zero-rating proposal attracts criticism

- Reportedly, **EU telecom attachés have criticised the latest proposal on zero-rating**, some of them arguing that the proposal was badly conceived and should be dropped altogether. Austria, Belgium, Denmark, Germany, the Netherlands and Slovenia were among the countries criticising the wording of the draft text. Many Member States are said to have argued that the proposal should instead focus on the **right of Internet users**.
- In order for the Member States to agree on a common net neutrality text by the end of the month, the **Latvian Presidency will revise the proposal** and try to gather support before the topic is discussed again on 24 February.

Cybersecurity

EU: EU Internet users increasingly concerned about cybercrime

- The 2015 edition of the **Safer Internet Day**, which aims to promote a safer and more responsible use of online technologies, especially by young people, was organised in over 100 countries. A new Eurobarometer on **cybersecurity** published on that occasion revealed that **EU Internet users remained concerned about cybercrime**, as 85% of the respondents indicated perceiving a risk of becoming a cybercrime victim. This is a 9% increase compared to 2013.
- EU Home Affairs Commissioner Dimitris Avramopoulos** stated that cybercrime undermines consumer confidence, thus hampering the EU digital economy. He noted that the Commission will renew its take on cybersecurity as a new **European Agenda on Security** is being prepared.
- EuroISPA**, the European Internet Service Providers Association, highlighted the **importance of industry self-regulation** in ensuring the Internet as a safe environment. **Nicolas D'Arcy**, co-chair of EuroISPA's Safer Internet Committee, said that experience showed that distribution of illegal content over the Internet can best be tackled by the industry and Internet users cooperating within a self-regulatory framework.

Internet governance

EU: European Parliament adopts resolution calling for the renewal of IGF mandate

- On 11 February, the **European Parliament's plenary** adopted a joint **motion for a resolution** tabled by all political groups, calling for the **renewal of the mandate of the Internet Governance Forum (IGF)**. The joint resolution replaced several separate ones which had been tabled by different political groups few days ahead of the vote.
- This unity among political groups shows that MEPs are in agreement over some of the **key principles of Internet governance**, namely the need for **EU institutions to cooperate more closely with the IGF**

and to support a **multi-stakeholder model of governance**.

- In their interventions ahead of the vote, MEPs also raised the following issues: functioning of the Internet, internalisation process of ICANN and IANA transition, as well as protection of privacy and net neutrality. They also called on the **European Parliament to send a larger delegation to IGF** meetings, so that all political groups and more Committees are represented in the process.

Data protection

EU: Article 29 Working Party calls on suspending Safe Harbour, if no progress achieved

- In a **letter** sent to **EU Justice Commissioner Věra Jourová**, the **Article 29 Working Party** urged the **European Commission to suspend the Safe Harbour agreement**, if negotiations with the US authorities do not lead to a positive outcome. Similar remarks were made in the early stages of the agreement's review (April 2014).
- The deal has come **under scrutiny from EU lawmakers** following revelations about US intelligence services collecting EU citizens' data. The Commission submitted a list of suggestions for the US side to address. Based on Commissioner Jourová's assessment, the talks are expected to come to an end in May.

EU: Data Protection Regulation faces setback as one-stop shop dispute lingers

- **Disagreements over the proposed one-stop shop principle** continue to hold up negotiations on the proposed revamp of the EU data protection framework. The plan to wrap up the legislation this year might be difficult, should the negotiators remain at odds with a system that would see a regulator in one Member State taking the lead in cross-border investigations.
- The proposal gives the **European Data Protection Board (EDPB)**, an umbrella group of national data protection authorities, the prerogative to issue binding decision in a case when national authorities fail to agree on a complaint.
- The question of which complaint should reach the EDPB constitutes one of the points of contention. The number of DPAs that would be involved in investigations on cross-border privacy violations is another problematic part of the proposal.
- Latvian Presidency intends to square views on the one-stop shop ahead of a meeting of the EU Justice Council that will take place on 12 and 13 March.

EU: DPAs critical of Google's implementation of the right to be forgotten

- **Isabelle Falque-Pierrotin**, chair of CNIL, French data protection watchdog that is leading the Article 29 Working Party, stated that Google is **disobeying** the law, if it does not remove links globally. The comment came after the company's Advisory Council concluded its work on the implementation of the right to be forgotten, backing Google's current approach.
- CNIL's chairwoman warned that **Google may face a legal action**. The company's legal counsel stated that they will carefully consider the Advisory Council's report, underlining that Google remains open to negotiate with EU data protection watchdogs.
- A European Commission spokesperson stated that the **Commission encourages stakeholders to continue engaging in a dialogue with the enforcement authorities** in finding solutions that comply with the court ruling.

Taxation

France: Minister of Culture considers ways to introduce a levy based on bandwidth use

- **Fleur Pellerin**, Minister of Culture and Communications, said that she was looking into ways how to introduce a new **tax based on the use of bandwidth**. She made a similar announcement in 2013, when she was the country's Secretary in charge of digital economy.

- The question of **taxation of digital economy** is high on the French political agenda. According to the Institute of Advertising Research (Irep), in 2013, Google paid €7.7m in taxes on €1.6bn of advertising revenue in France.

Open Internet

EU: Eurojust calls on the EU to address legal and technical difficulties of e-evidence use and gathering

- The terrorist attacks in Paris have placed security concerns on top of the political agenda and Internet companies in the spotlight given militants' **use of web-based services** to spread propaganda. A report by **Eurojust**, the EU's Judicial Cooperation Unit, urged EU Member States to develop a common approach that would **define lawful interception of Internet-based services**.
- The report underlined that the **interception of Voice over Internet Protocol (VoIP)** communications is problematic and hinders investigations. Thus, a harmonized approach to address technical difficulties and legal challenges in the gathering and admissibility of e-evidence would support EU's fight against terrorism and radicalism.
- A statement which followed the **Informal Council meeting** that took place on 12 February 2015 highlighted that measures preventing radicalisation are key elements of the fight against terrorism. Those measures should include instruments to **detect and remove Internet content** which promotes terrorism and extremism, **greater cooperation between public authorities and the private sector**, as well as cooperation with **Europol** in order to establish **Internet referral capabilities**.

France: Government can require ISPs to block sites with terrorist-related, child pornography contents

- A decree published in the country's Official Journal allows the French government to **require ISPs to block sites** that contain or support acts of terrorism and child pornography. The request can be made **without a court order**, with ISPs having 24 hours to comply.
- The decree sets the terms according to which **ISPs can request compensation for any extra costs incurred to execute the blocking**. The compensation will be granted by the state.
- The Central Office for the Fight Against Crime Linked to Information Technology and Communication (OCLCTIC) will be listing sites with offensive material. There will be a quarterly review of the blocked sites.
- The decree implements the provisions contained in two acts (the LOPPSI Act of 2011 and the Terrorism Act of 2014) which both triggered **opposition from civil rights advocates**. Felix Tréguer from *La Quadrature du Net* stated that website blocking is ineffective, as it is easily circumvented. The association plans to **bring the decree before the French Council of State** to get it overturned.